Reg. No. K. 107.

# KERALA GAZETTE

## EXTRAORDINARY

### PUBLISHED BY AUTHORITY

Vol. XX] Trivandrum, Thursday 13th February, 1975 / 24th Magha 1896 [No. 71

## SECRETARIAT OF THE KERALA LEGISLATURE

### NOTIFICATION

No. 1040/LA4/75. *Dated, Trivandrum, 13th February, 1975.*

The following Bill together with the Statement of Objects and Reasons, and the Financial Memorandum is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
*Secretary,*
*Legislative Assembly.*

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS,
TRIVANDRUM, 1975.

33/353/MC.

# THE SREE PANDARAVAKA LANDS (VESTING AND ENFRANCHISEMENT) AMENDMENT BILL, 1975

## A

## *BILL*

*to amend the Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971).*

*Preamble.*—WHEREAS it is expedient to amend the Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971, for the purpose hereinafter appearing;

BE it enacted in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Sree Pandaravaka Lands (Vesting and Enfranchisement) Amendment Act, 1975.

(2) It shall be deemed to have come into force on the 1st day of August, 1973.

2. *Amendment of section 13.*—In section 13 of the Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971 (20 of 1971) (hereinafter referred to as the principal Act), in the proviso to sub-section (1), for the words "two years", the words "four years" shall be substituted.

3. *Repeal and saving.*—(1) The Sree Pandaravaka Lands (Vesting and Enfranchisement) Amendment Ordinance, 1975 (1 of 1975), is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance shall be deemed to have been done or taken under the principal Act as amended by this Act.

## STATEMENT OF OBJECTS AND REASONS

According to sub-section (1) of section 13 of the Sree Pandaravaka Lands (Vesting and Enfranchisement) Act, 1971, the Sree Padmanabhaswami Temple shall not be entitled to collect the arrears of rent accrued due before the appointed day (1-8-1971) and was outstanding on that day. Under the proviso to the said sub-section, if a landholder pays within two years from the appointed day, in such manner as may be prescribed, an amount equal to the arrears of rent for a financial year or the actual arrears outstanding on the appointed day, whichever is less, together with interest thereon, all arrears of rent shall be deemed to be fully discharged. But, the rules prescribing the manner in which the landholder has to pay the arrears of rent could not be issued within the period of two years from 1-8-1971. The rules in this respect could be issued only on 16-10-1974. The omission to prescribe the rules within the period stipulated in the proviso to sub-section (1) of section 13 deprived the landholders of their valuable right to avail of the concession allowed under the said proviso. Therefore, it was considered necessary to amend the Act with a view to provide for a further period of two years, that is, four years from the appointed day, within which the payment of arrears could be made. Since the Legislative Assembly was not in session, the above proposal was given effect to by promulgating the Sree Pandaravaka Lands (Vesting and Enfranchisement) Amendment Ordinance, 1975 (1 of 1975). The Bill seeks to replace the Ordinance by an Act of the Legislature.

## FINANCIAL MEMORANDUM

The Bill, if enacted and brought into operation, would not involve any expenditure from the Consolidated Fund of the State.

BABY JOHN

Reg. No. K. 107.

# KERALA GAZETTE

## EXTRAORDINARY

## PUBLISHED BY AUTHORITY

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### SECRETARIAT OF THE KERALA LEGISLATURE

### NOTIFICATION

No. 973/LA4/75. *Dated, Trivandrum, 13th February, 1975.*

The following Bill together with the Statement of Objects and Reasons, the Financial Memorandum and the Memorandum regarding Delegated Legislation is published, under Rule 67 of the Rules of Procedure and Conduct of Business in the Kerala Legislative Assembly.

Dr. R. PRASANNAN,
*Secretary,*
*Legislative Assembly.*

PRINTED AND PUBLISHED BY THE S.G.P. AT THE GOVERNMENT PRESS, TRIVANDRUM, 1975.

33/351/MC.

# THE KERALA BUILDING TAX BILL, 1975

*A*

*BILL*

*to provide for the levy of a tax on buildings.*

*Preamble.*—WHEREAS it is expedient to provide for the levy of a tax on buildings;

BE it enacted in the Twenty-sixth Year of the Republic of India as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Building Tax Act, 1975.

(2) It extends to the whole of the State of Kerala.

(3) It shall be deemed to have come into force on the 1st day of April, 1973.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) "annual value" of a building means the gross annual rent at which the building may at the time of completion be expected to let from month to month or from year to year;

(b) "appellate authority" means an appellate authority appointed under section 4;

(c) "assessee" means a person by whom building tax or any other sum of money is payable under this Act and includes every person in respect of whom any proceeding under this Act has been taken for the assessment of the building tax payable by him;

(d) "assessing authority" means an assessing authority appointed under section 4;

(e) "building" means a house, out-house, garage, or any other structure, or part thereof, whether of masonry, bricks, wood, metal, or other material, but does not include any portable shelter or any shed constructed principally of mud, bamboos, leaves, grass or thatch or a latrine which is not attached to the main structure.

*Explanation* 1.—In the case of buildings constructed for providing housing accommodation for workers and their families residing in plantations, in pursuance of section 15 of the Plantations Labour Act, 1951 (Central Act 69 of 1951) or buildings constructed under the Government of India subsidised Housing Scheme for industrial workers, each part of a building providing

or intended to provide accommodation for a worker or a worker and his family shall be deemed to be a separate building.

*Explanation* 2.—Where a building consists of different apartments or flats owned by different persons and the cost of construction of the building was met by all such persons jointly, each such apartment or flat shall be deemed to be a separate building;

(f) "capital value" of a building means the value arrived at by multiplying the annual value of a building by sixteen;

(g) "local authority" means a municipal corporation or a municipal council or a township committee or a panchayat or a cantonment board;

(h) "major repair or improvement", in respect of a building, means a repair or improvement as a result of which the capital value of the building is increased by more than fifteen thousand rupees;

(i) "owner" includes a person who for the time being is receiving, or is entitled to receive, the rent of any building, whether on his own account or on account of himself and others or as an agent, trustee, guardian or receiver for any other person or who should so receive the rent or be entitled to receive it if the building or part thereof were let to a tenant;

(j) "prescribed" means prescribed by rules made under this Act.

3. *Exemptions*.—(1) Nothing in this Act shall apply to—

(a) buildings owned by the Government of Kerala or the Government of India or any local authority; and

(b) buildings used principally for religious, charitable or educational purposes or as factories or workshops.

*Explanation*.—For the purposes of this sub-section, "charitable purpose" includes relief of the poor and free medical relief.

(2) If any question arises as to whether a building falls under sub-section (1), it shall be referred to the Government, and the Government shall decide the question after giving the interested parties an opportunity to present their case.

(3) A decision of the Government under sub-section (2) shall be final and shall not be called in question in any court of law.

4. *Authorities*.—(1) The Government may, by notification in the Gazette, appoint such officers as they think fit to be assessing authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(2) The Government may, by notification in the Gazette, appoint such officers as they think fit to be appellate authorities for the purposes of this Act and may assign to them such local limits as the Government may think fit.

(3) All officers and persons employed in the execution of this Act shall observe and follow the orders, instructions and directions of the Board of Revenue:

Provided that no such orders, instructions or directions shall be given so as to interfere with the discretion of the appellate authority in the exercise of its appellate functions.

5. *Charge of building tax.*—(1) Subject to the other provisions contained in this Act, there shall be charged a tax (hereinafter referred to as "building tax") at the rate specified in the Schedule in respect of every building the construction of which is completed on or after the 1st day of April, 1973, and the capital value of which exceeds fifteen thousand rupees.

(2) Every major repair of, or improvement to, a building constructed before the 1st day of April, 1973, made on or after that date shall be liable to the building tax at the rate referred to in sub-section (1) on the difference between the capital value of the building before effecting the major repair or improvement, as the case may be, and the capital value of the building after effecting the major repair or improvement.

(3) A building the construction of which is completed on or after the 1st day of April, 1973, and which is not liable to be taxed under the provisions of this Act on account of its having a capital value of not more than fifteen thousand rupees, shall become liable to be so taxed, if the capital value of the building subsequently increases to more than fifteen thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements to the building.

(4) Where the capital value of a building which has already been taxed under this Act is subsequently increased by more than ten thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements, building tax shall be computed on the capital value of the building including that of the new constructions or additions or combinations or, as the case may be, of the building as so repaired or improved, and credit shall be given to the tax already levied.

(5) Where there are out-houses, garages or other structures appurtenant to the main building, the capital value of such structures shall be determined in the manner specified in section 6 and the capital value so obtained shall be added on to the capital value of the main building.

(6) The building tax shall be payable by the owner of the building.

*Explanation.* 1.—For the purposes of this Act, the construction of a building shall be deemed to have been completed when it is ready for occupation or has been actually occupied, whichever is earlier.

*Explanation* 2.—For the purposes of assessment under sub-section (3) or sub-section (4), capital value of a building shall be the capital value on the date of completion of the new constructions or additions or combinations or, as the case may be, on the date of completion of the repairs or improvements.

6. *Determination of capital value.*—(1) For determining the capital value for the purposes of this Act, the annual value of a building shall be the annual value fixed for that building in the assessment books of the local authority within whose area the building is situate.

(2) Notwithstanding anything contained in sub-section (1), if the assessing authority is of opinion that the annual value fixed for a building in the assessment books of the local authority is too low, it may, after giving the person or persons affected thereby an opportunity of being heard, fix the annual value of the building.

(3) Where the local authority has not fixed the annual value of a building in any case falling under sub-section (2) or sub-section (3) or sub-section (4) of section 5 within a period of six months after the completion of the repair or improvement or the construction or addition or combination, as the case may be, the assessing authority may, after giving the person or persons affected thereby an opportunity of being heard, and after informing the local authority concerned, assess the annual value of the building.

(4) In determining the annual value under sub-section (2) or sub-section (3), the assessing authority shall have regard to the following factors, namely:—

(a) the location of the building;

(b) the nature and quality of the structure of the building;

(c) the capability of the building for profitable use;

(d) amenities provided in the building;

(e) access to the building from public roads or water ways;

(f) the value of the land on which the building is constructed;

(g) the estimated cost of construction of the building;

(h) such other factors as may be prescribed.

7. *Return of completion, etc., of building.*—(1) The owner of every building—

(a) the construction of which is completed on or after the 1st day of April, 1973, and the estimated capital value of which is more than fifteen thousand rupees; or

(b) the construction of which was completed before the 1st day of April, 1973 and to which major repairs or improvements are made after the said date; or

(c) the construction of which has been completed on or after the 1st day of April, 1973, and whose capital value subsequently increases to more than fifteen thousand rupees due to new constructions or additions or combinations or as a result of repairs or improvements; or

(d) which has already been taxed under this Act and the capital value of which subsequently increases by more than ten thousand rupees by new constructions or additions or combinations or as a result of repairs or improvements,

shall furnish to the assessing authority a return in the prescribed form and verified in the prescribed manner and containing such particulars as may be prescribed.

(2) A return under sub-section (1) shall be furnished—

(a) in the case of buildings the construction of which has been completed before the 27th July, 1974, within two months from that date;

(b) in the case of major repairs or improvements or new constructions or additions or combinations, or other repairs or improvements, made before the 27th July, 1974, within two months from that date;

(c) in other cases, within two months from the date of completion of the construction of the building or the completion of the repairs or improvements or the new constructions or additions or combinations.

(3) If the assessing authority is of opinion that any person is liable to furnish a return under sub-section (1), then, notwithstanding anything contained in that sub-section, it may serve a notice upon that person requiring him to furnish within such period, not being less than thirty days from the date of service of the notice, as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner and containing such particulars as may be specified in the notice.

(4) The assessing authority may, if it is satisfied that it is necessary so to do, extend the date for the furnishing of the return under this section.

8. *Return after due date and amendment of return.*—If any person has not furnished a return within the time allowed by or under section 7, or having furnished a return under that section discovers any omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made.

9. *Assessment.*—(1) If the assessing authority is satisfied that a return made by an owner under section 7 or section 8 is correct and complete, it shall assess the amount payable by him as building tax on the basis of the return.

(2) If the assessing authority is not so satisfied, it shall serve a notice on the assessee either to attend in person at its office on a date to be specified in the notice or to produce or cause to be produced on that date any evidence on which the assessee may rely in support of his return.

(3) The assessing authority, after hearing such evidence as the assessee may produce and such other evidence as it may require on any specified point and after conducting such enquiries or inspection as it may consider necessary, shall, by order in writing, assess the amount payable by him as building tax.

(4) For the purpose of making an assessment under this Act, the assessing authority may serve on any person who has made a return under sub-section (1) of section 7 or section 8 or upon whom a notice has been served under sub-section (3) of section 7, a notice requiring him to produce or cause to be produced on a date specified in the notice such records or other documents as the assessing authority may require.

(5) If any person fails to make a return in response to any notice under sub-section (3) of section 7, or fails to comply with the terms of any notice issued under sub-section (2) or sub-section (4) of this section, the assessing authority shall assess the amount payable by the person as building tax to the best of its judgment.

10. *Notice of demand.*—When any building tax is due in consequence of any order passed under or in pursuance of this Act, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

11. *Appeals.*—(1) Any assessee objecting to the amount of building tax assessed under section 9 or denying his liability to be assessed under this Act or objecting to any order of the assessing authority under this Act may appeal to the appellate authority against the assessment or against such order:

Provided that no such appeal shall lie unless the building tax has been paid.

(2) An appeal under sub-section (1) shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appeal shall be presented within a period of thirty days from the date of service of the notice of demand relating to the assessment or the date of service of the order, as the case may be, but the appellate authority may admit an appeal presented after the expiration of the said period if it is satisfied that the appellant had sufficient cause for not presenting it within the said period, provided however that no such appeal shall be admitted after a period of six months from the date of service of the notice of demand relating to the assessment or the date of service of the order, as the case may be.

(4) The appellate authority shall fix a day and place for the hearing of the appeal and may from time to time adjourn the hearing and make or cause to be made such further inquiry as it thinks fit.

(5) At the hearing of the appeal the assessing authority shall also have a right to be heard.

(6) In disposing of an appeal, the appellate authority may, subject to the provisions of section 12,—

(a) in the case of an order of assessment,—

(i) confirm, reduce, enhance, or annul the assessment;

(ii) set aside the assessment and direct the assessing authority to make a fresh assessment after such further inquiry as may be directed; or

(b) in the case of any other order, confirm cancel or vary such order.

(7) The appellate authority shall, on the conclusion of the appeal, communicate the orders passed by it to the assessee and the assessing authority.

(8) The orders passed by the appellate authority shall, subject to the provisions of sections 13 and 14, be final and shall not be liable to be questioned in a court of law.

12. *Reference to District Court.*—(1) The appellate authority may, if it is satisfied either *suo motu* or on application by any party to an appeal under section 11 that the decision on the appeal involves a question of law, draw up a statement of the case and refer it to the District Court.

(2) If the District Court is not satisfied that the statement in a case referred under this section is sufficient to enable it to determine the question raised thereby, the court may refer the case back to the appellate authority to make such additions thereto or alterations therein as the court may direct in that behalf.

(3) The District Court, upon the hearing of any such case, shall decide the questions of law raised thereby and shall deliver its judgment thereon containing the grounds on which such decision is founded and shall send a copy of such judgment under the seal of the court to the appellate authority which shall pass orders on the appeal in conformity with such judgment.

(4) For the purposes of this section, "District Court" mean the District Court having jurisdiction over the area in which the building in respect of which building tax has been levied is situate.

13. *Power of revision of the District Collector.*—The District Collector may, either *suo motu* or on application by any person aggrieved, call for and examine the record of any order passed by the appellate authority or the assessing authority and may pass such order in reference thereto as he thinks fit:

Provided that no such order shall be passed under this sub-section without notice to the party who may be affected by the order:

Provided further that the District Collector shall not call for and examine the record of any order passed by the assessing authority—

(a) if the period of thirty days specified for presentation of appeal under sub-section (3) of section 11 has not expired; or

(b) if an appeal against that order is pending before the appellate authority:

Provided also that no order passed on the basis of a reference under section 12 to the extent covered by the answer to such reference shall be subject to revision by the District Collector.

(2) The District Collector shall not *suo motu* revise an order under sub-section (1) if that order has been passed more than three months previously.

(3) An application under sub-section (1) by an aggrieved party shall be made before the expiry of thirty days from the date on which the order in question was communicated to him.

14. *Power of revision of the Government.*—The Government may, on application by any person aggrieved call for and examine the record of any order passed by the District Collector *suo motu* under section 13, for the purpose of satisfying themselves as to the propriety or regularity of such order and pass such order in reference thereto as they think fit:

Provided that the Government shall not revise any order under this section after the expiry of sixty days from the date on which that order was communicated to the applicant:

Provided further that an order to the prejudice of any person shall not be passed under this section unless that person has been given a reasonable opportunity to show cause against such order.

15. *Rectification of mistakes.*—(1) The appellate authority or the revisional authority may, at any time within three years from the date of an order passed by it on appeal or revision, as the case may be, and the assessing authority may, at any time within three years from the date of any assessment or order passed by it, of its own motion, rectify any mistake apparent from the record of the appeal, revision, assessment or order, as the case may be, and shall, within the like period rectify any such mistake which has been brought to its notice by an assessee:

Provided that no such rectification shall be made which has the effect of enhancing an assessment or reducing a refund unless the assessee has been given a reasonable opportunity of being heard in the matter.

(2) Where any such rectification has the effect of reducing the assessment, the assessing authority shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment or reducing a refund, the assessing authority shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable; and such notice of demand shall be deemed to be issued under section [illegible] and the provisions of this Act shall apply accordingly.

16. *Revision of building tax when annual value is revised by local authority.*—(1) Where the annual value of a building fixed by a local authority is enhanced or reduced under the law governing that local authority on the ground that the annual value originally fixed was excessive or low the building tax levied under this Act shall be revised by the assessing authority in conformity with such enhancement or reduction:

Provided that an assessment under sub-section (2) or sub-section (3) of section 6 shall not be revised under this sub-section.

(2) The provisions of sections 10, 11, 12, 13, 14 and 15 shall apply to an order passed by the assessing authority under sub-section (1) as if it were an order passed by it under section 9.

17. *Power to take evidence on oath, etc.*—The assessing authority, the appellate authority and the revisional authority shall, for the purposes of this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, when trying a suit, in respect of the following matters, namely:—

(a) enforcing the attendance of any person and examining him on oath or affirmation;

(b) compelling the production of documents;

(c) issuing commissions.

18. *Payment of building tax.*—Any amount specified as payable in a notice of demand under section 10, or an order under section 11 or section 13 or section 14 shall be paid in such number of instalments, within such time, at such place and to such person, as may be prescribed, and any assessee failing so to pay shall be deemed to be in default.

19. *Mode and time of recovery.*—(1) When building tax is not paid on the due date, the arrears of the tax shall bear interest at the rate of six per cent per annum from the date of default.

(2) The arrears of building tax and the interest, if any, thereon shall be a first charge on the building in respect of which it is payable, and, notwithstanding anything contained in any other law, the claim for such arrears and interest shall have precedence over the claim for any tax levied by a local authority, and such amount shall be recoverable under the law for the time being in force relating to the recovery of arrears of public revenue due on land.

20. *Refunds.*—(1) If any person satisfies the assessing authority that the amount of building tax paid by him exceeds the amount with which such person is properly assessable under this Act he shall be entitled to a refund of such excess.

(2) The appellate authority in the exercise of its appellate powers or the revisional authority in the exercise of its revisional powers, if satisfied to the like effect, shall cause a refund to be made by the assessing authority of any amount found to have been wrongly paid or paid in excess.

21. *False statements in declaration.*—If any person makes a statement in a verification mentioned in section 7 or sub-section (2) of section 11 which is false and which he either knows or believes to be false or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code (Central Act 45 of 1860).

22. *Failure to furnish return.*—(1) If any person fails without reasonable cause or excuse to furnish in due time any return specified in sub-section (1) or sub-section (3) of section 7, the assessing authority, the appellate authority or the revisional authority may impose a penalty which may extend to five rupees for every day during which the default continues.

(2) The penalty imposed under sub-section (1) may be recovered in the same manner as arrears of building tax.

23. *Power of inspection.*—(1) The assessing authority or any officer authorised by the assessing authority, the appellate authority or the revisional authority in this behalf may, after due notice, at any time between sunrise and sunset, enter any building for the purpose of collecting particulars relating thereto or for taking measurements of the building or any repairs or improvements or any constructions or additions or combinations and may require the owner of the building or any other person in charge or in occupation of the building to produce for inspection any book, register or record kept therein and ask for any information relating to the building or the repairs or improvements or the constructions or additions or combinations, as the case may be, and the owner of the building or other person in charge or occupation shall be bound to afford facilities for taking measurements and for such inspection, and furnish such information as is available with him.

(2) Any person who obstructs the assessing authority or other officer authorised in the exercise of the powers conferred on it or him by sub-section (1) shall be punishable with imprisonment for a term which may extent to three months, or with fine which may extend to five hundred rupees, or with both.

24. *Prosecutions.*—(1) A person shall not be proceeded against for an offence under section 21 or section 23 except at the instance of such officer as may be authorised by the Government in this behalf.

(2) Before instituting proceedings against any person under sub-section (1), the officer authorised under that sub-section shall call upon such person to show cause why proceedings should not be instituted against him.

(3) The officer authorised under sub-section (1) may, either before or after the institution of proceedings, compound any such offence other than an offence under section 23.

25. *Manner of service of notice.*—(1) A notice or requisition under this Act may be served on the person therein named either by post or as if it were a summons issued by a civil court under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm, Hindu undivided family or Aliyasanthana family or branch or Marumakkathayam tarwad or tavazhi or a family to which the provisions of the Kerala Namboodiri Act, 1958, apply, be addressed to any member of the firm or to the Manager, Ejaman or Karanavan, or any adult member of the family, tarwad, tavazhi or branch and, in the case of any other association of persons, be addressed to the principal officer thereof.

26. *Power to make rules.*—(1) The Government may, by notification in the Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for—

(a) the determination of the capital value of buildings and cost of major repairs and improvements to the buildings;

(b) the form of returns under section 7 and the manner in which they shall be verified;

(c) the form of the notice of demand mentioned in section 10;

(d) the mode and manner of payment of building tax;

(e) the powers and duties of authorities and officers under this Act and the relations of the authorities to each other;

(f) the conditions of service of the assessing authorities and appellate authorities;

(g) the form in which appeals under this Act shall be presented and the manner in which they shall be verified;

(h) the form of application under section 12 or section 13 or section 14;

(i) the form of the notice of demand mentioned in sub-section (3) of section 15;

(j) the manner in which and the authority to whom application for refund shall be made and the procedure to be followed in respect of such applications; and

(k) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before the Legislative Assembly while it is in session for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid, or the session immediately following, the Legislative Assembly makes any modification in the rule or decides that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

27. *Bar of suits etc., in Courts.*—No suit shall be brought in any civil court to set aside or modify any assessment made under this Act and no prosecution suit or other proceeding shall lie against the Government or any authority or officer for anything in good faith done or intended to be done under this Act.

28. *Computation of period of limitation.*—In computing the period of limitation prescribed for any appeal under this Act, the date on which the order complained of was made and the time requisite for obtaining a copy of such order shall be excluded.

29. *Building tax not to be taken into account in fixing fair rent.*—For the avoidance of doubt, it is hereby declared that in fixing the fair rent of a building under section 5 of the Kerala Building (Lease and Rent Control) Act, 1965 (2 of 1965), the rent control court shall not take into consideration the building tax that is payable in respect of the building under the provisions of this Act.

30. *Removal of difficulties.*—If any difficulty arises in giving effect to the provisions of this Act, the Government, as occasion may require, may by order do anything not inconsistent with the provisions of this Act for the purpose of removing the difficulty.

31. *Repeal and saving.*—(1) The Kerala Building Tax Ordinance, 1974 (16 of 1974), is hereby repealed.

(2) Notwithstanding such repeal, anything done or deemed to have been done or any action taken or deemed to have been taken under the said Ordinance shall be deemed to have been done or taken under this Act.

## THE SCHEDULE

(*See* Section 5)

**Rate of Building tax**

| *Capital value* | *Rate of tax* |
|---|---|
| 1. Where the capital value of a building is Rs. 15,000 or less | NIL |
| 2. Where the capital value of a building exceeds Rs. 15,000— | |
| (a) on the first Rs. 10,000 of such excess | 1 per cent |
| (b) on the next Rs. 25,000 of such excess | 2 per cent |
| (c) on the next Rs. 50,000 of such excess | 5 per cent |
| (d) on the next Rs. 50,000 of such excess | 8 per cent |
| (e) on the next Rs. 50,000 of such excess | 10 per cent |
| (f) on the balance | 15 per cent |

## STATEMENT OF OBJECTS AND REASONS

In his Budget Speech for 1970-71, the Minister for Finance had declared among other things, that a non-recurring tax on buildings constructed or in respect of which major repairs and improvements are undertaken on or after 1st April, 1970 would be introduced. Accordingly, the Kerala Building Tax Bill, 1973, providing for the levy of a non-recurring tax on buildings constructed, etc., on or after the 1st April, 1970, was prepared and published as L.A. Bill No. 146. The Bill was introduced in the Legislative Assembly on 5-7-1973 and referred to a Select Committee. The Select Committee submitted its report on 28-3-1974. However, the Bill as reported by the Select Committee could not be taken up during the last budget session.

2. After the budget session, it was considered that the levy of building tax as proposed in the Bill as reported by the Select Committee should be given effect to immediately. Therefore, the Kerala Building Tax Ordinance, 1974 (10 of 1974), was promulgated by the Governor on the 27th July, 1974, to give effect to the provisions of the Bill as reported by the Select Committee. The Kerala Building Tax Bill, 1974, for replacing that Ordinance by an Act of the Legislature was published as L.A. Bill No. 200 with the intention of getting it passed during the last session of the Legislative Assembly. But that Bill could not be introduced and passed during the last session of the Legislative Assembly, and consequently Ordinance No. 10 of 1974 could not be replaced by an Act of the Legislature. Under sub-clause (a) of clause (2) of article 213 of the Constitution of India, the Ordinance would have ceased to

operate on the 10th November, 1974. Therefore, in order to keep alive the provisions of Ordinance No. 10 of 1974, the Governor on the 10th November, 1974, promulgated the Kerala Building Tax Ordinance, 1974 (16 of 1974) containing the same provisions as in Ordinance No. 10 of 1974.

2. The Bill seeks to replace Ordinance No. 16 of 1974 by an Act of the Legislature.

## FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that the Government may appoint such officers as they think fit to be assessing authorities and appellate authorities for the purposes of the Act. It is expected that the functions of the assessing authorities and appellate authorities could be performed by the appropriate officers of the Land Revenue Department. No expenditure would therefore be involved on account of the appointment of these authorities. The additional staff consisting of one Revenue Inspector and one Clerk would be necessary in each taluk office to assist the assessing authorities in performing their functions. The approximate expenditure on the additional staff works out as follows:—

Monthly pay and allowances of one Revenue Inspector and one Clerk:

| | | |
|---|---|---|
| Average pay | .. | Rs. 350 x 2 = 700 |
| D.A. | .. | Rs. 72 x 2 = 144 |
| *H.R.A. | .. | Rs. 18 x 2 = 36 |
| Total | .. | Rs. 440 x 2 = 880 |

(*H.R.A. at a higher rate will be payable to the staff working in the *Corporation areas*).

| | |
|---|---|
| *Total No. of Taluks* | 57 |
| *Annual expenditure in respect of 57 Taluks* | 880 x 57 x 12 |
| | 6,01,920 |
| *P.T.A. at Rs. 30 p.m. for the Revenue Inspectors* | 20,520 |
| *Grand Total* | 6,22,440 |

*Out of the above staff, three Revenue Inspectors and three Clerks may be working in Corporation areas where* H.R.A. at a higher rate (i.e. 8% of the *pay subject to a maximum of Rs. 30 p.m.)* is payable. This may involve *an additional expenditure of about Rs. 800* per annum. It is expected that

increase, if any, in the office expenditure in the taluk offices consequent on the creation of the above staff will only be nominal. The total recurring expenditure, if the Bill is passed into law and brought into operation, is therefore estimated at about rupees 6.3 lakhs per annum.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 4 of the Bill seeks to empower the Government to appoint, by notification in the Gazette, assessing authorities and appellate authorities for the purposes of the Act. Clause 26 of the Bill seeks to empower the Government to make rules for carrying out the purposes of the Act. The matters in respect of which rules may be made relate, *inter alia*, to the determination of the capital value of buildings and cost of major repairs and improvements to buildings, the form of notice of demand to be served on assessees, the mode and manner of payment of building tax and the form in which appeals shall be presented and the manner in which they shall be verified.

2. The matters in respect of which notifications may be issued or rules may be made are matters of administrative or routine nature or matters of detail. Further, the rules after they are made are subject to scrutiny of the Legislative Assembly. The delegation of legislative power is thus of a normal character.

Dr. K.G. ADIYODI